



Reprinted
January 29, 2008

SENATE BILL No. 307

DIGEST OF SB 307 (Updated January 28, 2008 6:28 pm - DI 106)

Citations Affected: IC 4-1; IC 4-5; IC 9-17; IC 9-18; IC 9-22; IC 9-23; IC 9-29; IC 9-31; IC 15-7; IC 23-1; IC 23-15; IC 23-16; IC 23-17; IC 23-18; noncode.

Synopsis: Various business matters. Permits the disclosure of Social Security numbers for purposes of administration of the Uniform Commercial Code by the secretary of state. Codifies a memorandum of understanding between the secretary of state and the bureau of motor vehicles (BMV) to transfer responsibilities under: (1) IC 9-18-26 (dealer license plates); (2) IC 9-22-4 (licensing of vehicle salvaging); and (3) IC 9-31-4 (boat dealer licenses); from the BMV to the secretary of state. Amends the review procedures for a person denied a license to engage in: (1) vehicle salvaging; (2) the business of buying or selling motor vehicles; or (3) the business of selling boats. Establishes the dealer compliance account and deposits certain license and permit fees collected by the secretary of state in the fund. Provides that the secretary of state (rather than the BMV) retains fees for: (1) boat dealers licenses; and (2) changes of business names or locations for boat dealers. Provides that a boat dealer license is valid for one year. (Current law provides that the license is valid for two years.) Requires all business entities and individuals to file certificates of assumed business names with the secretary of state. (Current law requires the certificates be filed with both the county recorder and the secretary of state.) Eliminates the filing fee for designation or change of resident agent. Reduces fees for electronic filings with the secretary of state. Makes conforming amendments.

Effective: July 1, 2008.

Bray, Broden

January 10, 2008, read first time and referred to Committee on Judiciary.
January 24, 2008, reported favorably — Do Pass.
January 28, 2008, read second time, amended, ordered engrossed.

SB 307—LS 6872/DI 103+



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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 307

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-1-10-5, AS AMENDED BY P.L.29-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 5. (a) A state agency may disclose the Social
4 Security number of an individual if any of the following apply:

5 (1) The disclosure of the Social Security number is expressly
6 required by state law, federal law, or a court order.

7 (2) The individual expressly consents in writing to the disclosure
8 of the individual's Social Security number.

9 (3) The disclosure of the Social Security number is:

10 (A) made to comply with:

11 (i) the USA Patriot Act of 2001 (P.L. 107-56); or

12 (ii) Presidential Executive Order 13224; or

13 (B) to a commercial entity for the permissible uses set forth in
14 the:

15 (i) Drivers Privacy Protection Act (18 U.S.C. 2721 et seq.);

16 (ii) Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

17 (iii) Financial Modernization Act of 1999 (15 U.S.C. 6801

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et seq.).

(4) The disclosure of the Social Security number is for the purpose of administration of a state agency employee's or the state agency employee's dependent's health benefits.

(5) The disclosure of the Social Security number is for the purpose of administration of:

(A) a pension fund administered by the board of trustees of the public employees' retirement fund;

(B) the Indiana state teachers' retirement fund;

(C) a deferred compensation plan or defined contribution plan established under IC 5-10-1.1; ~~or~~

(D) a pension plan established by the state police department under IC 10-12; **or**

(E) the Uniform Commercial Code (IC 26-1) by the office of the secretary of state.

(b) A state agency's disclosure of the Social Security number of an individual in compliance with subsection (a) does not violate IC 5-14-3-4(a)(12).

SECTION 2. IC 4-5-1-11, AS ADDED BY P.L.184-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The secretary of state may adopt and enforce rules under IC 4-22-2 that are necessary to carry out:

(1) IC 9-18-26;

(2) IC 9-22-4;

~~(3)~~ **(3) IC 9-23-1;**

~~(4)~~ **(4) IC 9-23-2;**

~~(5)~~ **(5) IC 9-23-3; and**

~~(6)~~ **(6) IC 9-23-6.**

SECTION 3. IC 9-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "dealer" refers to a dealer that has:

(1) been in business for not less than five (5) years; and

(2) sold not less than one hundred fifty (150) motor vehicles during the preceding **calendar** year.

(b) This section does not apply to the following:

(1) A new motor vehicle or recreational vehicle sold by a dealer licensed by the state.

(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(c) An application for a certificate of title for a motor vehicle or

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recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

- (1) An employee of a dealer designated by the ~~bureau~~ **secretary of state** to perform an inspection.
- (2) A military policeman assigned to a military post in Indiana.
- (3) A police officer.
- (4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

- (1) Make a record of inspection upon the application form prepared by the bureau.
- (2) Verify the facts set out in the application.

SECTION 4. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is otherwise transferred, the person who holds the certificate of title must do the following:

- (1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.
- (2) Except as provided in subdivisions (3) and (4), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.
- (3) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.
- (4) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:
 - (A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.
 - (B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.
 - (C) The vehicle dealer reasonably believes that it will be able to deliver the certificate of title, without a lien or an

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encumbrance on the certificate of title, within the twenty-one (21) day period.

(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(3) or (a)(4) at the time of the sale.

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars (\$100) for the first violation.

(2) Two hundred fifty dollars (\$250) for the second violation.

(3) Five hundred dollars (\$500) for all subsequent violations.

Payment shall be made to the ~~bureau~~ **secretary of state** and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

(d) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars (\$100). If:

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

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the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(e) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

(g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 5. IC 9-18-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A person licensed under IC 9-23-2 may apply for a dealer license plate. The application must include any information the ~~bureau~~ **secretary of state** reasonably requires. Upon application, a distinctive registration number shall be assigned to each applicant. Two (2) certificates of registration and two (2) ~~sets of~~ metal license plates bearing the applicant's registration number shall then be issued to the applicant.

SECTION 6. IC 9-18-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The ~~bureau~~ **secretary of state** shall issue dealer license plates under this chapter according to the following classifications:

- (1) Dealer-new.
- (2) Dealer-used.
- (3) Manufacturer.

(b) The ~~bureau~~ **secretary of state** may adopt rules under IC 4-22-2 to establish additional classifications of dealer license plates and may prescribe the general conditions for usage of an additional classification. The ~~bureau~~ **secretary of state** shall establish the classification of antique car museum dealer license plates.

SECTION 7. IC 9-18-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The ~~bureau~~ **secretary of state** shall determine the color, dimension, and style of the letters and the information required on a dealer license plate issued under this chapter.

SECTION 8. IC 9-18-26-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. Upon payment of the
 2 fee under IC 9-29-8, an applicant may obtain additional dealer license
 3 plates of the same category. The applicant must demonstrate the
 4 applicant's need for additional plates by stating the applicant's number
 5 of employees, annual sales, and other supporting factors. The ~~bureau~~
 6 **secretary of state** shall determine whether the applicant is entitled to
 7 additional plates.

8 SECTION 9. IC 9-18-26-7 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. Dealer-new,
 10 dealer-used, and manufacturer license plates may be used without
 11 restriction by a manufacturer, a dealer, or an employee of a
 12 manufacturer or a dealer under rules adopted by the ~~bureau~~ **secretary**
 13 **of state** to prohibit use of the plates solely to avoid payment of
 14 applicable taxes.

15 SECTION 10. IC 9-18-26-10 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~bureau~~
 17 **secretary of state** may issue an interim license plate to a dealer or
 18 manufacturer who is licensed and has been issued a license plate under
 19 section 1 of this chapter.

20 (b) The ~~bureau~~ **secretary of state** shall prescribe the form of an
 21 interim license plate issued under this section. However, a plate must
 22 bear the assigned registration number and provide sufficient space for
 23 the expiration date as provided in subsection (c).

24 (c) Whenever a dealer or manufacturer sells a motor vehicle, the
 25 dealer or manufacturer may provide the buyer with an interim license
 26 plate. The dealer shall, in the manner provided by the ~~bureau~~,
 27 **secretary of state**, affix on the plate in numerals and letters at least
 28 three (3) inches high the date on which the interim license plate
 29 expires.

30 (d) An interim license plate authorizes a motor vehicle owner to
 31 operate the vehicle for a maximum period of thirty-one (31) days after
 32 the date of delivery of the vehicle to the vehicle's owner or until a
 33 regular license plate is issued, whichever occurs first.

34 (e) A motor vehicle that is required by law to display license plates
 35 on the front and rear of the vehicle is only required to display a single
 36 interim plate.

37 SECTION 11. IC 9-18-26-12 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. A person who
 39 knowingly violates a rule adopted by the ~~bureau~~ **secretary of state**
 40 regarding the classification and use of a dealer plate commits a Class
 41 A infraction.

42 SECTION 12. IC 9-18-26-14 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. A person who violates this chapter or a rule or order of the ~~bureau~~ **secretary of state** issued under this chapter is subject to a civil penalty of not less than fifty dollars (\$50) and not more than one thousand dollars (\$1,000) for each day of violation and for each act of violation, as determined by the court. All civil penalties recovered under this chapter shall be paid to the state.

SECTION 13. IC 9-18-26-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. In addition to the civil penalty imposed under section 14 of this chapter, the ~~bureau~~ **secretary of state** may restrict, suspend, or revoke a dealer permanent or interim license plate that was issued to the violator.

SECTION 14. IC 9-18-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. Whenever a person violates this chapter or a rule or order of the ~~bureau~~ **secretary of state** issued under this chapter, the ~~bureau~~ **secretary of state** may institute a civil action in any circuit or superior court of Indiana for injunctive relief to restrain the person from continuing the activity or for the assessment and recovery of the civil penalty provided in section 14 of this chapter, or both.

SECTION 15. IC 9-18-26-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. At the request of the ~~bureau~~ **secretary of state**, the attorney general shall institute and conduct an action in the name of the state for:

- (1) injunctive relief or to recover the civil penalty provided by section 14 of this chapter;
- (2) the injunctive relief provided by section 16 of this chapter; or
- (3) both.

SECTION 16. IC 9-18-26-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. All records directly related to the use of interim plates by a dealer must be made available to an investigating employee of the ~~bureau~~ **secretary of state** upon demand at the dealer's place of business.

SECTION 17. IC 9-22-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The ~~bureau~~ **secretary of state** shall prescribe recordkeeping forms to be used by:

- (1) a disposal facility;
- (2) an automotive salvage rebuilder; and
- (3) a used parts dealer licensed under IC 9-22-4;

to preserve information about salvage vehicles or major component parts acquired or sold by the business.

(b) The recordkeeping forms required under subsection (a) must

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contain the following information:

(1) For each new or used vehicle acquired or disposed of or for the major component parts of a new or used vehicle, the following:

(A) A description of the vehicle or major component part, including numbers or other marks identifying the vehicle or major component part.

(B) The date the vehicle or major component part was acquired and disposed of.

(C) The name and address of the person from whom the vehicle or major component part was acquired.

(D) Verification of the purchaser of the vehicle or major component part by driver's license, state identification card, or other reliable means.

(2) For motor vehicles acquired or disposed of, in addition to the information required by subdivision (1), the following:

(A) The vehicle's trade name.

(B) The vehicle's manufacturer.

(C) The vehicle's type.

(D) The model year and vehicle identification number.

(E) A statement of whether any number has been defaced, destroyed, or changed.

(3) For wrecked, dismantled, or rebuilt vehicles, the date the vehicle was dismantled or rebuilt.

(c) Separate records for each vehicle or major component part must be maintained.

(d) The recordkeeping requirements of this section do not apply to hulk crushers or to scrap metal processors when purchasing scrap from a person who is licensed under IC 9-22-4 and who is required to keep records under this section.

SECTION 18. IC 9-22-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A disposal facility, a used parts dealer, or an automotive salvage rebuilder must be licensed by the ~~bureau~~ **secretary of state** under this chapter before the facility, dealer, or rebuilder may do any of the following:

(1) Sell a used major component part of a vehicle.

(2) Wreck or dismantle a vehicle for resale of the major component parts of the vehicle.

(3) Rebuild a wrecked or dismantled vehicle.

(4) Possess more than two (2) inoperable vehicles subject to registration for more than thirty (30) days.

(5) Engage in the business of storing, disposing, salvaging, or

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recycling of vehicles, vehicle hulks, or the parts of vehicles.

SECTION 19. IC 9-22-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. To apply for a license under this chapter, a disposal facility, a used parts dealer, or an automotive salvage rebuilder must do the following:

(1) File a completed application, which must be verified by the ~~bureau~~ **secretary of state**.

(2) Submit with the application the licensing fee under IC 9-29-7 to the ~~bureau~~ **secretary of state**.

SECTION 20. IC 9-22-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The ~~bureau~~ **secretary of state** shall prescribe an application form to be used by persons applying for a license under this chapter. The application must include the following information:

(1) The applicant's name.

(2) The applicant's type of business organization and the following as appropriate:

(A) If the applicant is a corporation, the name and address of each officer and director of the corporation.

(B) If the applicant is a sole proprietorship, the name and address of the sole proprietor.

(C) If the applicant is a partnership, the name and address of each partner.

(D) If the applicant is an unincorporated association or similar form of business organization, the name and address of each member, trustee, or manager.

(3) The applicant's principal place of business.

(4) All places other than the applicant's principal place of business at which the applicant proposes to conduct any of the activities set out in section 1 of this chapter.

(5) The types of activities set out in section 1 of this chapter that the applicant proposes to conduct.

SECTION 21. IC 9-22-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Within a reasonable time, the ~~bureau~~ **secretary of state** shall do the following:

(1) Review all applications submitted under this chapter.

(2) Approve all applications submitted unless any of the following apply:

(A) The application does not conform with this chapter.

(B) The applicant has made a material misrepresentation on the application.

(C) The applicant has been guilty of a fraudulent act in

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1 connection with one (1) of the activities specified in section 1
2 of this chapter.

3 SECTION 22. IC 9-22-4-6 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A person denied a
5 license under section 5 of this chapter is entitled to a hearing under
6 ~~IC 4-21-5-3~~ **section 10 of this chapter.**

7 SECTION 23. IC 9-22-4-7 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. If the ~~bureau~~
9 **secretary of state** approves an application under this chapter, the
10 ~~bureau~~ **secretary of state** shall grant the applicant the following:

11 (1) An original license for the applicant's principal place of
12 business.

13 (2) A supplemental license for each other place of business listed
14 on the application.

15 SECTION 24. IC 9-22-4-8 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The ~~bureau~~
17 **secretary of state** shall prescribe the form of the licenses granted
18 under section 7 of this chapter. A license granted under section 7 of
19 this chapter must include the following information:

20 (1) The licensee's name.

21 (2) The licensee's type of business organization and the following
22 as appropriate:

23 (A) If a corporation, the name and address of each officer.

24 (B) If a sole proprietorship, the name and address of the
25 proprietor.

26 (C) If a partnership, the name and address of each managing
27 partner.

28 (D) If an unincorporated association or similar form of
29 business organization, the name and address of the manager or
30 other chief administrative official.

31 (3) The licensee's principal place of business.

32 (4) The place of business to which each supplemental license
33 applies.

34 (5) A listing of the types of business activities specified in section
35 1 of this chapter that the licensee may conduct.

36 (6) The date the license expires.

37 SECTION 25. IC 9-22-4-10 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. **(a) The secretary
39 of state may investigate a violation of this chapter, including a
40 violation of a rule adopted under section 12 of this chapter. In
41 conducting an investigation under this subsection, the secretary of
42 state may do the following:**

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1 (1) Administer oaths and affirmations.

2 (2) Subpoena witnesses and compel attendance.

3 (3) Take evidence.

4 (4) Require the production of documents or records that the
5 secretary of state determines are material to the investigation.

6 Upon a motion by the secretary of state, the court may order a
7 person that fails to obey a subpoena issued under subdivision (2) to
8 obey the subpoena.

9 (b) A person may not be excused from:

10 (1) obeying a subpoena issued by;

11 (2) attending a proceeding and testifying as ordered by; or

12 (3) otherwise producing evidence as ordered by;

13 the secretary of state on grounds that the person's testimony or
14 evidence may tend to incriminate the person or subject the person
15 to a penalty or forfeiture. However, a person that asserts the
16 privilege against self-incrimination may not be prosecuted or
17 subjected to a penalty or forfeiture for any matter concerning the
18 person's testimony or evidence.

19 (c) Following an investigation under subsection (a), the
20 secretary of state may, without a hearing, issue orders and notices
21 that the secretary of state determines to be in the public interest.
22 The ~~bureau~~ secretary of state may ~~revoke or suspend~~ issue an order
23 ~~under this subsection suspending or revoking~~ the license of a
24 disposal facility, used parts dealer, or automotive salvage rebuilder
25 after providing a fifteen (15) day written notice and conducting a
26 hearing under ~~IC 4-21.5-3~~ only if the ~~bureau~~ secretary of state
27 determines that any of the following conditions ~~exists~~: exist:

28 (1) The licensee made a material misrepresentation on the license
29 application.

30 (2) The licensee committed a fraudulent act in connection with
31 one (1) of the activities specified in section 1 of this chapter.

32 (3) The licensee committed a material violation of the
33 recordkeeping requirements of IC 9-22-3-19.

34 (4) The licensee has violated any other provision of this chapter
35 or the rules adopted under this chapter by the bureau.

36 (5) The licensee has committed a violation of a statute concerning
37 theft, arson, mischief, forgery, deception, or fraud, or the motor
38 vehicle titling laws.

39 (6) The licensee has had a license issued under IC 9-23 revoked
40 or suspended.

41 (d) Upon the entry of an order under subsection (c), the
42 secretary of state shall promptly notify all interested parties of the

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following:

(1) The date of issuance.

(2) The reasons for issuance.

(3) That, upon written request, the matter will be set for hearing within fifteen (15) business days after receipt of the request.

(e) An order issued under subsection (c) remains in effect until the secretary of state:

(1) modifies or vacates the order; or

(2) conducts a hearing and issues a final determination.

(f) If the secretary of state conducts a hearing under this section, the secretary of state may depose any witness.

(g) In addition to all other remedies, the secretary of state may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate this chapter:

(1) An injunction.

(2) Appointment of a receiver or conservator.

(3) A civil penalty not to exceed five thousand dollars (\$5,000) per violation.

(4) An action to enforce a civil penalty assessed under subdivision (3).

(h) In a court proceeding initiated under this section in which judgment is awarded to the secretary of state, the secretary of state is entitled to recover the costs and expenses of investigation, and the court shall include the costs in its final judgment.

SECTION 26. IC 9-22-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. If the ~~bureau~~ **secretary of state** receives a written complaint from a local zoning body that a disposal facility or automotive salvage rebuilder subject to this chapter is operating in violation of a local zoning ordinance, the ~~bureau~~ **secretary of state** shall delay the issuance or renewal of the facility's or rebuilder's license until the local zoning complaints have been satisfied.

SECTION 27. IC 9-22-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. The ~~bureau~~ **secretary of state** may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 28. IC 9-22-4-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) An appeal may be taken from a final order of the secretary of state under this chapter as follows:

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1 (1) By an applicant for a license under this chapter, from a
 2 final order of the secretary of state concerning the
 3 application.

4 (2) By a licensee, from a final order of the secretary of state
 5 affecting the licensee's license under this chapter.

6 (3) By a person against whom a civil penalty is assessed under
 7 section 10(g)(3) of this chapter, from the final order of the
 8 secretary of state assessing the civil penalty.

9 (4) By a person named as a respondent in an investigation or
 10 a proceeding under section 10 of this chapter, from a final
 11 order of the secretary of state entered under section 10 of this
 12 chapter. An appeal under this subdivision may be taken in:

13 (A) the Marion County circuit court; or

14 (B) the circuit or superior court of the county in which the
 15 appellant resides or maintains a place of business.

16 (b) A person who seeks to appeal a final order of the secretary
 17 of state under this section must serve the secretary of state with the
 18 following not more than twenty (20) days after the entry of the
 19 order:

20 (1) A written notice of the appeal stating:

21 (A) the court in which the appeal will be taken; and

22 (B) the grounds on which a reversal of the final order is
 23 sought.

24 (2) A written demand from the appellant for:

25 (A) a certified transcript of the record; and

26 (B) all papers on file in the secretary of state's office;
 27 concerning the order from which the appeal is being taken.

28 (3) A bond in the penal sum of five hundred dollars (\$500)
 29 payable to the state with sufficient surety to be approved by
 30 the secretary of state, conditioned upon:

31 (A) the faithful prosecution of the appeal to final
 32 judgment; and

33 (B) the payment of all costs that are adjudged against the
 34 appellant.

35 (c) Not later than ten (10) days after the secretary of state is
 36 served with the items described in subsection (b), the secretary of
 37 state shall make, certify, and deliver to the appellant the transcript
 38 described in subsection (b)(2)(A). Not later than five (5) days after
 39 the appellant receives the transcript under this subsection, the
 40 appellant shall file the transcript and a copy of the notice of appeal
 41 with the clerk of the court. The notice of appeal serves as the
 42 appellant's complaint. The secretary of state may appear before

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the court, file any motion or pleading in the matter, and form the issue. The cause shall be entered on the court's calendar to be heard de novo and shall be given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written evidence concerning the order of the secretary of state from which the appeal is taken. If the order of the secretary of state is reversed, the court shall in its mandate specifically direct the secretary of state as to the secretary of state's further action in the matter. The secretary of state is not barred from revoking or altering the order for any proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant may, after thirty (30) days from the date the order is affirmed, file a new application for a license under this chapter if the application is not otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

(e) IC 4-21.5 does not apply to a proceeding under this chapter.

SECTION 29. IC 9-23-2-13, AS AMENDED BY P.L.184-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. Except as provided in IC 9-29-1-5 and IC 9-29-8-7, all revenues accruing to the secretary of state under this article shall be deposited in the motor vehicle highway account. ~~All necessary expenses incurred and all compensation paid by the secretary of state for administering this article shall be paid out of funds appropriated from the motor vehicle highway account for this purpose.~~

SECTION 30. IC 9-23-2-14, AS AMENDED BY P.L.184-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) **The secretary of state may investigate a violation of this chapter. In conducting an investigation under this subsection, the secretary of state may do the following:**

- (1) Administer oaths and affirmations.
- (2) Subpoena witnesses and compel attendance.
- (3) Take evidence.
- (4) Require the production of documents or records that the secretary of state determines are material to the investigation.

Upon a motion by the secretary of state, the court may order a person that fails to obey a subpoena issued under subdivision (2) to obey the subpoena.

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(b) A person may not be excused from:

(1) obeying a subpoena issued by;

(2) attending a proceeding and testifying as ordered by; or

(3) otherwise producing evidence as ordered by:

the secretary of state on grounds that the person's testimony or evidence may tend to incriminate the person or subject the person to a penalty or forfeiture. However, a person that asserts the privilege against self-incrimination may not be prosecuted or subject to a penalty or forfeiture for any matter concerning the person's testimony or evidence.

(a) (c) Following an investigation under subsection (a), the secretary of state may, without hearing, issue orders and notices that the secretary of state determines to be in the public interest. The secretary of state may issue an order under this subsection denying, suspending, or revoking a license issued under this chapter may be denied, suspended, or revoked for any of the following:

(1) Material misrepresentation in the application for the license or other information filed with the secretary of state.

(2) Lack of fitness under the standards set forth in this article or a rule adopted by the secretary of state under this article.

(3) Willful failure to comply with the provisions of this article or a rule adopted by the secretary of state under this article.

(4) Willful violation of a federal or state law relating to the sale, distribution, financing, or insuring of motor vehicles.

(5) Engaging in an unfair practice as set forth in this article or a rule adopted by the secretary of state under this article.

(6) Violating IC 23-2-2.7.

(7) Violating IC 9-19-1.

Except as otherwise provided, in subsection (d), the procedures set forth in IC 4-21-5 govern the denial, suspension, or revocation of a license and a judicial review: a denial, suspension, or revocation of a license takes effect after the secretary of state makes a determination and notice of the determination has been served upon the affected person.

(b) If the secretary of state denies, suspends, or revokes a license issued or sought under this article, the affected person may file an action in the circuit court of Marion County, Indiana, or the circuit court of the Indiana county in which the person's principal place of business is located, seeking a judicial determination as to whether the action is proper. The filing of an action as described in this section within the thirty (30) day period is an automatic stay of the secretary of state's determination.

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(d) Upon the entry of an order under subsection (c), the secretary of state shall promptly notify all interested parties of the following:

(1) The date of issuance.

(2) The reasons for issuance.

(3) That, upon written request from a party, the matter will be set for hearing within fifteen (15) business days after receipt of the request.

(e) An order entered under subsection (c) remains in effect until the secretary of state:

(1) modifies or vacates the summary order; or

(2) conducts a hearing and issues a final determination.

~~(c)~~ (f) Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, a distributor branch, a dealer, or an automobile auctioneer may be limited to one (1) or more locations, to one (1) or more defined areas, or only to certain aspects of the business.

~~(d)~~ A license may be denied, suspended, or revoked for violating IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of a license under this subsection. The secretary of state may issue a temporary order to enforce this subsection.

(g) If the secretary of state conducts a hearing under this section, the secretary of state may depose any witness.

(h) In addition to all other remedies, the secretary of state may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate this chapter:

(1) An injunction.

(2) Appointment of a receiver or conservator.

(3) A civil penalty not to exceed five thousand dollars (\$5,000) per violation.

(4) An action to enforce a civil penalty assessed under subdivision (3).

(i) In a court proceeding initiated under this section in which judgment is awarded to the secretary of state, the secretary of state is entitled to recover the costs and expenses of investigation, and the court shall include the costs in its final judgment.

SECTION 31. IC 9-23-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) An appeal may be taken from a final order of the secretary of state under this chapter as follows:

(1) By an applicant for a license under this chapter, from a final order of the secretary of state concerning the

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application.

(2) By a licensee, from a final order of the secretary of state affecting the licensee's license under this chapter.

(3) By a person against whom a civil penalty is imposed under section 14 of this chapter, from the final order of the secretary of state imposing the civil penalty.

(4) By a person named as a respondent in an investigation or a proceeding under section 14 of this chapter, from a final order of the secretary of state under section 14 of this chapter.

An appeal under this subdivision may be taken in:

(A) the Marion County circuit court; or

(B) the circuit or superior court of the county in which the appellant resides or maintains a place of business.

(b) A person who seeks to appeal a final order of the secretary of state under this section must serve the secretary of state with the following not more than twenty (20) days after the entry of the order:

(1) A written notice of the appeal stating:

(A) the court in which the appeal will be taken; and

(B) the grounds on which a reversal of the final order is sought.

(2) A written demand from the appellant for:

(A) a certified transcript of the record; and

(B) all papers on file in the secretary of state's office; concerning the order from which the appeal is being taken.

(3) A bond in the penal sum of five hundred dollars (\$500) payable to the state with sufficient surety to be approved by the secretary of state, conditioned upon:

(A) the faithful prosecution of the appeal to final judgment; and

(B) the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the secretary of state is served with the items described in subsection (b), the secretary of state shall make, certify, and deliver to the appellant the transcript described in subsection (b)(2)(A). Not later than five (5) days after the appellant receives the transcript under this subsection, the appellant shall file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The secretary of state may appear before the court, file any motion or pleading in the matter, and form the issue. The cause shall be entered on the court's calendar to be

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1 heard de novo and shall be given precedence over all matters
2 pending in the court.

3 (d) The court shall receive and consider any pertinent oral or
4 written evidence concerning the order of the secretary of state
5 from which the appeal is taken. If the order of the secretary of
6 state is reversed, the court shall in its mandate specifically direct
7 the secretary of state as to the secretary of state's further action in
8 the matter. The secretary of state is not barred from revoking or
9 altering the order for any proper cause that accrues or is
10 discovered after the order is entered. If the order is affirmed, the
11 appellant may, after thirty (30) days from the date the order is
12 affirmed, file a new application for a license under this chapter if
13 the application is not otherwise barred or limited. During the
14 pendency of the appeal, the order from which the appeal is taken
15 is not suspended but remains in effect unless otherwise ordered by
16 the court. An appeal may be taken from the judgment of the court
17 on the same terms and conditions as an appeal is taken in civil
18 actions.

19 (e) IC 4-21.5 does not apply to a proceeding under this chapter.

20 SECTION 32. IC 9-23-2-18 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2008]: Sec. 18. (a) The dealer compliance account is established
23 as a separate account to be administered by the secretary of state.
24 The funds in the account must be available, with the approval of
25 the budget agency, for use in enforcing and administering this
26 chapter.

27 (b) The expenses of administering the dealer compliance
28 account shall be paid from money in the account.

29 (c) The treasurer of state shall invest the money in the dealer
30 compliance account not currently needed to meet the obligations
31 of the account in the same manner as other public money may be
32 invested. Interest that accrues from these investments shall be
33 deposited in the account.

34 (d) The dealer compliance account consists of the following:

35 (1) Money deposited under:

36 (A) IC 9-29-5-43(b).

37 (B) IC 9-29-8-7(1).

38 (2) Appropriations to the account from other sources.

39 (3) Grants, gifts, donations, or transfers intended for deposit
40 in the account.

41 (4) Interest the accrues from money in the account.

42 (e) Money in the dealer compliance account at the end of a state

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1 **fiscal year does not revert to the state general fund.**

2 SECTION 33. IC 9-29-5-43 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. (a) Except as
4 otherwise provided by this chapter, **subsection (b)**, and IC 9-29-1-2,
5 registration fees collected under this chapter shall be paid into the state
6 general fund for credit to the motor vehicle highway account.

7 **(b) Fees collected under this chapter for license plates issued**
8 **under IC 9-18-26 by the secretary of state shall be deposited as**
9 **follows:**

10 **(1) Thirty percent (30%) to the dealer compliance account**
11 **established by IC 9-23-2-18.**

12 **(2) Seventy percent (70%) to the motor vehicle highway**
13 **account.**

14 SECTION 34. IC 9-29-7-6 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A licensing fee that
16 is submitted with an application under IC 9-22-4 shall be returned to
17 the applicant if the application is rejected by the ~~bureau~~ **secretary of**
18 **state.**

19 SECTION 35. IC 9-29-8-7, AS AMENDED BY P.L.184-2007,
20 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2008]: Sec. 7. All money collected by the secretary of state
22 from manufacturers, factory branches, distributors, distributor
23 branches, dealers, automobile auctioneers, factory representatives,
24 distributor representatives, wholesale dealers, transfer dealers,
25 converter manufacturers, or brokers for licenses and permit fees under
26 IC 9-23-2 shall be ~~credited to the motor vehicle odometer fund and~~
27 ~~allocated under IC 9-29-1-5:~~ **deposited as follows:**

28 **(1) Thirty percent (30%) to the dealer compliance account**
29 **established by IC 9-23-2-18.**

30 **(2) Seventy percent (70%) to the motor vehicle highway**
31 **account.**

32 SECTION 36. IC 9-29-15-7 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The fees under
34 IC 9-31-4 for a boat dealer's license for each full year are as follows:

35 (1) For a Class A dealer, thirty dollars (\$30) for the first place of
36 business, plus ten dollars (\$10) for each additional location.

37 (2) For a Class B dealer, twenty dollars (\$20).

38 (b) The ~~bureau~~ **secretary of state** retains the fees collected under
39 subsection (a).

40 SECTION 37. IC 9-29-15-8 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The fee for a
42 change of business name or location under IC 9-31-4-4 is five dollars

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1 (\$5).

2 (b) The fee is retained by the ~~bureau~~ **secretary of state**.

3 SECTION 38. IC 9-31-3-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A motorboat that has
5 never been registered in Indiana and that is purchased from a dealer
6 licensed by the ~~bureau~~ **secretary of state** under IC 9-31-4 may be
7 operated on the waters of Indiana for a period of thirty-one (31) days
8 from the date of purchase if the operator has in the operator's
9 possession the following:

10 (1) A bill of sale from the dealer giving the purchaser's name and
11 address, the date of purchase, and the make and type of boat or
12 the hull identification number.

13 (2) A temporary permit displayed on the forward portion of the
14 boat, as provided in section 6 of this chapter.

15 SECTION 39. IC 9-31-3-6 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The ~~bureau~~
17 **secretary of state** shall furnish temporary permits and registration
18 forms to a registered dealer upon request.

19 (b) A plate or card described in subsection (a) must display the
20 following information:

21 (1) The dealer's license number.

22 (2) The date of purchase, plainly stamped or stenciled on the plate
23 or card.

24 (c) A temporary permit may not be used or displayed unless the
25 plate or card is furnished by the bureau.

26 (d) A dealer who authorizes the use of a temporary permit under this
27 section does not assume responsibility or incur liability for injury to a
28 person or property during the period the temporary permit is in effect.

29 SECTION 40. IC 9-31-3-19 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. A dealer licensed
31 by the ~~bureau~~ **secretary of state** under IC 9-31-4 may, upon
32 application to the ~~bureau~~, **secretary of state**, obtain a certificate of
33 number for use in the testing or demonstrating of motorboats upon
34 payment of the fee prescribed under IC 9-29-15-6 for each registration
35 number. The ~~bureau~~ **secretary of state** shall issue ~~two (2)~~ **plates one**
36 **(1) plate** for each certificate of number assigned under this section.
37 ~~One (1) The plate must be displayed on each side of within~~ a boat that
38 is being tested or demonstrated while the boat is being tested or
39 demonstrated.

40 SECTION 41. IC 9-31-4-3 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An application
42 for a license must meet all the following conditions:

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(1) Be accompanied by the fee under IC 9-29-15-7.

(2) Be on a form prescribed by the ~~bureau~~ **secretary of state**.

(3) Contain any information that the ~~bureau~~ **secretary of state** reasonably needs to enable the ~~bureau~~ **secretary of state** to determine fully the qualifications and eligibility of the applicant to receive the license, the location of each of the applicant's places of business in Indiana, and the ability of the applicant to conduct properly the business for which the application is submitted.

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used boats or both.

SECTION 42. IC 9-31-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A license issued to a dealer must specify the location of each place of business and shall be conspicuously displayed at each business location. If a business name or location is changed, the holder shall notify the ~~bureau~~ **secretary of state** within ten (10) days and remit the fee specified under IC 9-29-15-8. The ~~bureau~~ **secretary of state** shall endorse that change on the license if it is determined that the change is not subject to other provisions of this chapter.

SECTION 43. IC 9-31-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a)~~ A license issued under this chapter is valid for ~~two (2) years~~ **one (1) year** after the date the license is issued. ~~as long as the annual fee is paid.~~ All license fees shall be paid ~~in advance~~ at the annual rate under IC 9-29-15-7.

~~(b) A person who surrenders a license at least twelve (12) months before the expiration date of the license may be refunded one-half (1/2) of the annual fee.~~

SECTION 44. IC 9-31-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A license may be denied, suspended, or revoked for any of the following:

(1) A material misrepresentation in the application for a license or other information filed with the ~~bureau~~ **secretary of state**.

(2) A lack of fitness under the standards set forth in this chapter or a rule adopted by the ~~bureau~~ **secretary of state** under this chapter.

(3) A willful failure to comply with this chapter or any rule adopted by the ~~bureau~~ **secretary of state** under this chapter.

(4) A willful violation of a federal or state law relating to the sale, distribution, financing, or insuring of boats.

(b) The procedures set forth in ~~IC 4-21-5~~ **IC 9-22-4** ~~govern~~ **governing the denial, suspension, or revocation of a license issued under IC 9-22-4 also apply to** the denial, suspension, or revocation of

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1 a license **issued under this chapter.** and judicial review of these
 2 ~~actions.~~ However, If the ~~bureau~~ **secretary of state** denies, suspends, or
 3 revokes a license issued or sought under this chapter, the affected
 4 person may file an action in the circuit court of the Indiana county in
 5 which the person's principal place of business is located seeking a
 6 judicial determination as to whether the action is proper. The ~~bureau's~~
 7 **secretary of state's** action does not take effect until thirty (30) days
 8 after the ~~bureau's~~ **secretary of state's** determination has been made
 9 and a notice is served upon the affected person. The filing of an action
 10 as described in this section within the thirty (30) day period is an
 11 automatic stay of the ~~bureau's~~ **secretary of state's** determination.

12 (c) Revocation or suspension of a license of a dealer may be limited
 13 to one (1) or more locations, one (1) or more defined areas, or certain
 14 aspects of the business.

15 SECTION 45. IC 9-31-4-8 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. In carrying out ~~its~~
 17 **the duties imposed on the secretary of state** under this chapter, the
 18 ~~bureau~~ **secretary of state** may do the following:

- 19 (1) Investigate and evaluate the qualifications of applicants for a
 20 license.
- 21 (2) Issue, deny, suspend, and revoke licenses.
- 22 (3) Investigate and conduct hearings on violations of this chapter.
- 23 (4) Issue orders and determinations.
- 24 (5) Sue and be sued in the name of the ~~bureau~~ **secretary of state**
 25 or the state.

26 SECTION 46. IC 9-31-4-9 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The ~~bureau~~
 28 **secretary of state** shall use all revenues accruing to the ~~bureau~~
 29 **secretary of state** under this chapter to enforce this chapter and
 30 Indiana boat registration laws. All necessary expenses incurred and all
 31 compensation paid by the ~~bureau~~ **secretary of state** for administering
 32 this chapter shall be paid out of the revenue received under this chapter
 33 and from any supplemental appropriations.

34 SECTION 47. IC 15-7-1-29 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. The secretary of
 36 state shall charge and collect, for the benefit of the state, to be paid to
 37 the general fund of the state of Indiana, the following fees to wit:

- 38 (a) For filing with the secretary of state, the articles of
 39 incorporation of any association organized or corporation
 40 reorganized under this chapter, which provides for the issuance of
 41 membership certificates only, and not for certificates of stock, five
 42 dollars (\$5).

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(b) For filing with the secretary of state, articles of incorporation of any association organized or any corporation reorganized under this chapter, which provides for the issue of capital stock, not in excess of five thousand dollars (\$5,000) of par value, five dollars (\$5). If the capital stock authorized to be issued by any such association shall exceed five thousand dollars (\$5,000), one cent (\$0.01) for each one hundred dollars (\$100) of additional par value.

(c) For filing with the secretary of state, a certificate of increase of capital stock of any association for an increase of not more than five thousand dollars (\$5,000) of par value, five dollars (\$5), and for each one hundred dollars (\$100) of par value of increase above such amount, one cent (\$0.01).

(d) For filing with the secretary of state, any certificate not herein specified, five dollars (\$5) each, regardless of the number of amendments contained in said certificate, except increases of capital stock upon which the fee shall be as hereinbefore provided.

(e) For filing biennial or special reports of associations, two dollars (\$2) for each filing, which shall be in addition to any and all other fees herein specified. The biennial report filing fee is one dollar (\$1) per year, to be paid biennially.

~~(f) For filing designation of or change of resident agent for any association, one dollar (\$1):~~

~~(g)~~ (f) For each certificate issued by the secretary of state, one dollar (\$1), and for each impression of the great seal of the state of Indiana, affixed by him the secretary of state on said certificate, fifty cents (\$0.50).

SECTION 48. IC 23-1-18-3, AS AMENDED BY P.L.60-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~Except as provided in subsection (e)~~; The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary of state for filing:

	Document	Electronic Filing Fee	Fee (Other than electronic filing)
39	(1) Articles of incorporation	\$75	\$90
40	(2) Application for use of		
41	indistinguishable name	\$10	\$20
42	(3) Application for reserved name	\$10	\$20

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1	(4)	Application for renewal	\$10	\$20
2		of reservation		
3	(5)	Notice of transfer of	\$10	\$20
4		reserved name		
5	(6)	Application for registered		
6		name	\$20	\$30
7	(7)	Application for renewal of		
8		registered name	\$20	\$30
9	(8)	Corporation's statement of		
10		change of registered agent		
11		or registered office or both	No Fee	No Fee
12	(9)	Agent's statement of change		
13		of registered office for each		
14		affected corporation	No Fee	No Fee
15	(10)	Agent's statement of		
16		resignation	No Fee	No Fee
17	(11)	Amendment of articles of		
18		incorporation	\$20	\$30
19	(12)	Restatement of articles of		
20		incorporation	\$20	\$30
21		With amendment of articles	\$20	\$30
22	(13)	Articles of merger or share		
23		exchange	\$75	\$90
24	(14)	Articles of dissolution	\$20	\$30
25	(15)	Articles of revocation of		
26		dissolution	\$20	\$30
27	(16)	Certificate of administrative		
28		dissolution	No Fee	No Fee
29	(17)	Application for reinstatement		
30		following administrative		
31		dissolution	\$20	\$30
32	(18)	Certificate of reinstatement	No Fee	No Fee
33	(19)	Certificate of judicial	No Fee	No Fee
34		dissolution		
35	(20)	Application for certificate of		
36		authority	\$75	\$90
37	(21)	Application for amended		
38		certificate of authority	\$20	\$30
39	(22)	Application for certificate of		
40		withdrawal	\$20	\$30
41	(23)	Certificate of revocation of		
42		authority to transact business	No Fee	No Fee

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1	(24)	Biennial report filed in		
2		writing including by		
3		facsimile	\$20	\$30
4	(25)	Biennial report filed by		
5		electronic medium	\$20	
6	(26)	Articles of correction	\$20	\$30
7	(27)	Application for certificate		
8		of existence or authorization	\$15	\$15
9	(28)	(27) Any other document		
10		required or permitted to		
11		be filed by this article,		
12		including an application		
13		for any other certificates		
14		or certification certificate		
15		(except for any such other		
16		certificates that the secretary		
17		of state may determine to		
18		issue without additional fee		
19		in connection with particular		
20		filings) and a request for		
21		other facts of record under		
22		section 9(b)(6) of this		
23		chapter	\$20	\$30
24	The secretary of state shall prescribe the electronic means of filing			
25	documents to which the electronic filing fees set forth in this			
26	section apply.			
27	(b) The fee set forth in subsection (a)(24) for filing a biennial report			
28	is:			
29	(1) fifteen dollars (\$15) per year, for a filing in writing, including			
30	facsimile; and			
31	(2) ten dollars (\$10) per year, for a filing by electronic medium ;			
32	means;			
33	to be paid biennially.			
34	(c) The secretary of state shall collect a fee of ten dollars (\$10) each			
35	time process is served on the secretary of state under this article. If the			
36	party to a proceeding causing service of process prevails in the			
37	proceeding, then that party is entitled to recover this fee as costs from			
38	the nonprevailing party.			
39	(d) The secretary of state shall collect the following fees for copying			
40	and certifying the copy of any filed document relating to a domestic or			
41	foreign corporation:			
42	(1) Per page for copying			\$ 1



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(2) For a certification stamp \$15

(e) If document described in subsection (a)(1) or (a)(20) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars (\$75).

SECTION 49. IC 23-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as otherwise provided in section 2 of this chapter:

(1) a person conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person conducting or transacting such business;

(2) a corporation conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation;

(3) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for certificate of authority to transact business in Indiana;

(4) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership;

(5) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;

(6) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;

(7) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;

(8) a limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration; and

(9) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;

shall file for record in the office of the recorder of each county in which a place of business or an office of the person, limited partnership, foreign limited partnership, limited liability company, foreign limited liability company, corporation, or foreign corporation is situated;

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secretary of state a certificate stating the assumed name or names to be used, and, in the case of a person, the full name and address of the person engaged in or transacting business, or, in the case of a corporation, foreign corporation, limited liability company, foreign limited liability company, limited partnership, or foreign limited partnership, the full name and the address of the corporation's, limited liability company's, or limited partnership's principal office in Indiana.

(b) The recorder shall keep a record of the certificates filed under this section and shall keep an index of the certificates showing, in alphabetical order, the names of the persons, the names of the partnerships, the names of the limited liability companies, the corporate names of the corporations having such certificates on file in the recorder's office; and the assumed name or names which they intend to use in carrying on their businesses as shown by the certificates.

(c) Before the dissolution of any business for which a certificate is on file with the recorder, the person, limited liability company, partnership, or corporation to which the certificate appertains shall file a notice of dissolution for record in the recorder's office.

(d) The county recorder shall charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution, and notice of discontinuance of use filed with the recorder's office and recorded under this chapter. The funds received shall be receipted as county funds the same as other money received by the recorders.

(e) A corporation, limited liability company, or limited partnership subject to this chapter shall, in addition to filing the certificate provided for in subsection (a), file with the secretary of state a copy of each certificate.

(f) (b) A person, partnership, limited liability company, or corporation that has filed a certificate of assumed business name or names under subsection (a) ~~or (e)~~ may file a notice of discontinuance of use of assumed business name or names with the secretary of state, ~~and with the recorder's office in which the certificate was filed or transferred.~~ The secretary of state ~~and the recorder~~ shall keep a record of notices filed under this subsection.

(g) (c) A corporation or limited partnership, domestic or foreign, that is subject to this chapter and that does not have a place of business or an office in Indiana, shall file the certificate required under subsection (a) in the office of the recorder of the county where the corporation's or limited partnership's registered office is located: **secretary of state.** The certificate must state the assumed name or names to be used, the name of the registered agent, and the address of the registered office. ~~The corporation or limited partnership must~~

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1 comply with the requirements in subsection (e).

2 ~~(h)~~ (d) The secretary of state shall collect the following fees when
3 a copy of a certificate is filed with the secretary of state under
4 subsection (e): **subsection (a):**

5 (1) A fee of:

6 (A) **twenty dollars (\$20) for an electronic filing; or**

7 (B) **thirty dollars (\$30) for a filing other than an electronic**
8 **filing;**

9 from a corporation (other than a nonprofit corporation), limited
10 liability company, or a limited partnership.

11 (2) A fee of:

12 (A) **ten dollars (\$10) for an electronic filing; or**

13 (B) **twenty-six dollars (\$26) for a filing other than an**
14 **electronic filing;**

15 from a nonprofit corporation.

16 **The secretary of state shall prescribe the electronic means of filing**
17 **certificates for purposes of collecting fees under this subsection. A**
18 **fee collected under this subsection is in addition to any other fee**
19 **collected by the secretary of state.**

20 SECTION 50. IC 23-16-12-4, AS AMENDED BY P.L.60-2007,
21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2008]: Sec. 4. (a) ~~Except as provided in subsection (d),~~ The
23 secretary of state shall collect the following fees when the documents
24 described in this section are delivered by a domestic or foreign limited
25 partnership to the secretary of state for filing:

26 Document	27 Electronic Filing Fee	28 Filing Fee (Other than 29 electronic filing)
30 (1) Application for	\$10	\$20
31 reservation of name		
32 (2) Application for use	\$10	\$20
33 of indistinguishable name		
34 (3) Application for	\$10	\$20
35 renewal of reservation		
36 (4) Notice of transfer of reserved name	\$10	
37 \$20		
38 (5) Application of registered name	\$20	\$30
39 (6) Application for renewal	\$20	\$30
40 of registered name		
41 (7) Certificate of change		
42 of registered agent's		



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1	business address	No fee	No fee
2	(8) Certificate of resignation of agent	No fee	No fee
3	(9) Certificate of limited partnership	\$75	\$90
4	(10) Certificate of amendment	\$20	\$30
5	(11) Certificate of cancellation	\$75	\$90
6	(12) Restated certificate of		
7	limited partnership or registration	\$20	\$30
8	(13) Restated certificate of		
9	limited partnership or		
10	registration with amendments	\$20	\$30
11	(14) Application for registration	\$75	\$90
12	(15) Certificate of change of		
13	application	\$20	\$30
14	(16) Certificate of cancellation of		
15	registration	\$20	\$30
16	(17) Certificate of change		
17	of registered agent	No fee	No fee
18	(18) Application for certificate		
19	of existence or authorization	\$15	\$15
20	(19) Any other document required or		
21	permitted to be filed under this		
22	article, including an application		
23	for any other certificates or		
24	certification certificate (except		
25	for any such other certificates		
26	that the secretary of state may		
27	determine to issue without		
28	additional fee in connection with		
29	particular filings)	\$20	\$30
30	The secretary of state shall prescribe the electronic means of filing		
31	documents to which the electronic filing fees set forth in this		
32	section apply.		
33	(b) The secretary of state shall collect a fee of ten dollars (\$10) each		
34	time process is served on the secretary of state under this article. If the		
35	party to a proceeding causing service of process prevails in the		
36	proceeding, then that party is entitled to recover this fee as costs from		
37	the nonprevailing party.		
38	(c) The secretary of state shall collect the following fees for copying		
39	and certifying the copy of any filed document relating to a domestic or		
40	foreign limited partnership:		
41	(1) Per page for copying	\$ 1	
42	(2) For a certification stamp	\$15	

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(d) If the document described in subsection (a)(9) or (a)(14) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars (\$75):

SECTION 51. IC 23-17-29-3, AS AMENDED BY P.L.60-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Except as provided in subsection (d), The secretary of state shall collect the following fees when the following documents are delivered for filing:

Document	Electronic Filing Fee	Filing Fee (Other than electronic filing)
(1) Articles of Incorporation	\$20	\$30
(2) Application for use of indistinguishable name	\$10	\$20
(3) Application for reserved name	\$10	\$20
(4) Notice of transfer of reserved name	\$10	\$20
(5) Application for renewal of reservation	\$10	\$20
(6) Application for registered name	\$20	\$30
(7) Application for renewal of registered name	\$20	\$30
(8) Corporation's statement of change of registered agent or registered office or both	no fee	no fee
(9) Agent's statement of change of registered office for each affected corporation	no fee	no fee
(10) Agent's statement of resignation	no fee	no fee
(11) Amendment of articles of incorporation	\$20	\$30
(12) Restatement of articles of incorporation with amendments	\$20	\$30
(13) Articles of merger	\$20	\$30
(14) Articles of dissolution	\$20	\$30
(15) Articles of revocation of dissolution	\$20	\$30
(16) Certificate of administrative dissolution	no fee	no fee
(17) Application for reinstatement following administrative		

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1	dissolution	\$20	\$30
2	(18) Certificate of reinstatement	no fee	no fee
3	(19) Certificate of judicial	no fee	no fee
4	dissolution		
5	(20) Application for certificate of		
6	authority	\$20	\$30
7	(21) Application for amended		
8	certificate of authority	\$20	\$30
9	(22) Application for certificate of		
10	withdrawal	\$20	\$30
11	(23) Certificate of revocation of		
12	authority to transact business	no fee	no fee
13	(24) Annual report filed in writing,		
14	including a facsimile	\$5	\$10
15	(25) Annual report filed by electronic		
16	medium	\$ 5	
17	(26) (25) Certificate of existence	\$15	\$15
18	(27) (26) Any other document		
19	required or permitted to be		
20	filed by this article	\$20	\$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The secretary of state shall collect a fee of ten dollars (\$10) upon being served with process under this article. The party to a proceeding causing service of process may recover the fee paid the secretary of state as costs if the party prevails in the proceeding.

(c) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(1) One dollar (\$1) a page for copying.

(2) Fifteen dollars (\$15) for the certification stamp.

~~(d) If the document described in subsection (a)(1) or (a)(20) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of twenty dollars (\$20).~~

SECTION 52. IC 23-18-12-3, AS AMENDED BY P.L.60-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~Except as provided in subsection (c),~~ The secretary of state shall collect the following fees when the documents described in this section are delivered for filing:

Document	Electronic Filing Fee	Filing Fee (Other than
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			electronic filing)
1			
2			
3	(1) Articles of organization	\$75	\$90
4	(2) Application for use of		
5	indistinguishable name	\$10	\$20
6	(3) Application for reservation	\$10	\$20
7	of name		
8	(4) Application for renewal of		
9	reservation	\$10	\$20
10	(5) Notice of transfer or cancellation		
11	of reservation	\$10	\$20
12	(6) Application of registered name	\$20	\$30
13	(7) Application for renewal	\$20	\$30
14	of registered name		
15	(8) Certificate of change of registered		
16	agent's business address	No Fee	No Fee
17	(9) Certificate of resignation of agent	No Fee	No Fee
18	(10) Articles of amendment	\$20	\$30
19	(11) Restatement of articles of		
20	organization	\$20	\$30
21	(12) Articles of dissolution	\$20	\$30
22	(13) Application for certificate of		
23	authority	\$75	\$90
24	(14) Application for amended		
25	certificate of authority	\$20	\$30
26	(15) Application for certificate of		
27	withdrawal	\$20	\$30
28	(16) Application for reinstatement		
29	following administrative		
30	dissolution	\$20	\$30
31	(17) Articles of correction	\$20	\$30
32	(18) Certificate of change of		
33	registered agent	No Fee	No Fee
34	(19) Application for certificate of		
35	existence or authorization	\$15	\$15
36	(20) Biennial report filed in writing,		
37	including by facsimile	\$20	\$30
38	(21) Biennial report filed by electronic		
39	medium	\$20	
40	(22) (21) Articles of merger		
41	involving a domestic limited		
42	liability company	\$75	\$90

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(23) (22) Any other document
required or permitted to be
filed under this article

\$20

\$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The fee set forth in subsection (a)(20) for filing a biennial report is:

(1) for an electronic filing, ten dollars (\$10) per year; or

(2) for a filing other than an electronic filing, fifteen dollars (\$15) per year;

to be paid biennially.

(c) The secretary of state shall collect a fee of \$10 each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(1) One dollar (\$1) per page for copying.

(2) Fifteen dollars (\$15) for certification stamp.

~~(e) If the document described in subsection (a)(1) or (a)(13) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars (\$75).~~

SECTION 53. [EFFECTIVE JULY 1, 2008] The rules adopted by the bureau of motor vehicles before July 1, 2008, concerning:

(1) IC 9-18-26; and

(2) IC 9-22-4;

are considered, after June 30, 2008, rules of the secretary of state.

SECTION 54. [EFFECTIVE JULY 1, 2008] (a) Notwithstanding IC 9-29-8-7, as amended by this act, the budget agency shall transfer from the motor vehicle highway account to an account or fund identified by the bureau of motor vehicles and approved by the budget agency an amount necessary to hold the account or fund harmless for money the account or fund would have received under IC 9-29-8-7, before its amendment by this act.

(b) A transfer under this SECTION is subject to review by the budget committee.

(c) This SECTION expires July 1, 2009.

SECTION 55. [EFFECTIVE JULY 1, 2008] (a) Notwithstanding the amendment of IC 23-15-1-1 by this act, a person conducting or

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1 transacting business in Indiana under a name, designation, or title
2 other than the real name of the person conducting or transacting
3 such business shall comply with IC 23-15-1-1, before its
4 amendment by this act.

5 (b) This SECTION expires June 30, 2009.

6 SECTION 56. [EFFECTIVE JULY 1, 2008] (a) The legislative
7 services agency shall prepare legislation for introduction in the
8 2009 regular session of the general assembly to organize and
9 correct statutes affected by this act.

10 (b) This SECTION expires January 1, 2011.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 307, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 307 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 307.

BRAY

SENATE MOTION

Madam President: I move that Senate Bill 307 be amended to read as follows:

Page 6, delete lines 15 through 31.

Page 14, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 29. IC 9-23-2-13, AS AMENDED BY P.L.184-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. Except as provided in IC 9-29-1-5 **and IC 9-29-8-7**, all revenues accruing to the secretary of state under this article shall be deposited in the motor vehicle highway account. ~~All necessary expenses incurred and all compensation paid by the secretary of state for administering this article shall be paid out of funds appropriated from the motor vehicle highway account for this purpose.~~".

Page 18, line 34, delete "odometer laws." and insert "**and administering this chapter.**".

Page 19, delete lines 1 through 2, begin a new line block indented and insert:

"(1) Money deposited under:

(A) IC 9-29-5-43(b).

(B) IC 9-29-8-7(1)."

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Page 19, delete lines 9 through 24, begin a new paragraph and insert:

"SECTION 33. IC 9-29-5-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. (a) Except as otherwise provided by this chapter, **subsection (b)**, and IC 9-29-1-2, registration fees collected under this chapter shall be paid into the state general fund for credit to the motor vehicle highway account.

(b) Fees collected under this chapter for license plates issued under IC 9-18-26 by the secretary of state shall be deposited as follows:

(1) Thirty percent (30%) to the dealer compliance account established by IC 9-23-2-18.

(2) Seventy percent (70%) to the motor vehicle highway account."

Page 19, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 35. IC 9-29-8-7, AS AMENDED BY P.L.184-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. All money collected by the secretary of state from manufacturers, factory branches, distributors, distributor branches, dealers, automobile auctioneers, factory representatives, distributor representatives, wholesale dealers, transfer dealers, converter manufacturers, or brokers for licenses and permit fees under IC 9-23-2 shall be credited to the motor vehicle odometer fund and allocated under ~~IC 9-29-1-5~~. **deposited as follows:**

(1) Thirty percent (30%) to the dealer compliance account established by IC 9-23-2-18.

(2) Seventy percent (70%) to the motor vehicle highway account."

Page 20, line 35, strike "on each side of" and insert "**within**".

Page 33, delete lines 27 through 38, begin a new paragraph and insert:

"SECTION 54. [EFFECTIVE JULY 1, 2008] (a) **Notwithstanding IC 9-29-8-7, as amended by this act, the budget agency shall transfer from the motor vehicle highway account to an account or fund identified by the bureau of motor vehicles and approved by the budget agency an amount necessary to hold the account or fund harmless for money the account or fund would have received under IC 9-29-8-7, before its amendment by this act.**

(b) A transfer under this SECTION is subject to review by the budget committee.

(c) This SECTION expires July 1, 2009.

SECTION 55. [EFFECTIVE JULY 1, 2008] (a) **Notwithstanding**

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the amendment of IC 23-15-1-1 by this act, a person conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person conducting or transacting such business shall comply with IC 23-15-1-1, before its amendment by this act.

(b) This SECTION expires June 30, 2009."

Renumber all SECTIONS consecutively.

(Reference is to SB 307 as printed January 25, 2008.)

BRAY

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